

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DONALD BARTO, }
Petitioner, } Civil Action No. 05-294 Erie
v. }
MARIPLYN BROOKS, et al., }
Respondents. }

MEMORANDUM ORDER

This petition for writ of habeas corpus was received by the Clerk of Court on October 7, 2005 and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation, filed on November 30, 2006, recommended that the petition for writ of habeas corpus be dismissed and that a certificate of appealability be denied. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Petitioner by certified mail at the SCI Albion, where he is incarcerated, and on Respondent. Petitioner has filed no objections to Magistrate Judge Baxter's Report and Recommendation. After de novo review of the petition and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 20th day of December, 2006;

IT IS HEREBY ORDERED that the Petition for Writ of Habeas Corpus is DISMISSED and that a certificate of appealability is DENIED.

The Report and Recommendation of Magistrate Judge Baxter, filed on November 30, 2006, is adopted as the opinion of the Court.

s/ Sean J. McLaughlin
United States District Judge

cm: All parties of record
Susan Paradise Baxter, U.S. Magistrate Judge